

Adult Social Care Policies and Procedures

FIRST AND THIRD PARTY TOP UPS

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POLICY VERSION CONTROL

POLICY NAME	First and Third Party Top Ups		
Document Description	This document sets out the county council's response to obligations placed on it by Section 30 of the Care Act 2014 to arrange for a person or a third party to meet the additional cost where the person chooses a more expensive setting than the county council would normally provide.		
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1. POLICY STATEMENT

This PPG document should be read in conjunction with the Choice of Accommodation PPG and with the Discharge of Hospital Patients with Care and Support Needs PPG.

A person's ability to make an informed choice is a vital part of their care and support.

Where [care and support planning](#) determines that a person's needs are best met in a care home, the county council must provide for the person's preferred choice of accommodation, subject to certain conditions. This obligation also extends to Shared Lives, care and support in shared housing and Extra Care housing and where the county council is providing or arranging accommodation under section 117 of the Mental Health Act 1983.

In each of these cases, a person can choose accommodation that costs more than the county council is willing to pay if someone else – known as a "third party" – can make up the difference between that figure and the home's fee.

This is known as a third-party 'top-up fee'.

In certain circumstances the person who is receiving care and support (called the "first party") can pay the additional costs themselves, if they are willing and able.

This is known as a first-party 'top-up fee'.

Arrangements to pay these fees are subject to a full written, legal agreement between the county council and the relevant party.

In all cases, the choice of preferred accommodation must be suitable to the person's needs.

What are top-up fees for?

If the county council is funding or helping to fund a person's residential placement, the person will be allocated an amount of money, known as a personal budget, to meet their needs following a financial assessment.

When the person chooses a home that is more expensive than the amount in their personal budget, they can still move there as long as someone agrees to pay the additional cost or the 'top-up fee'. The prospective resident ("*the first party*") or a relative, family member, friend or other representative ("*the third party*") must meet this additional cost for the entirety of the resident's stay in the relevant accommodation.

These additional fees are typically charged for enhanced facilities in a residential setting (for example, a higher standard of accommodation, a bigger room, more or better amenities, or a different location).

The person receiving care will not usually pay the 'top-up'. The only exception is if the person receiving care has entered into a 12-week property disregard period or a [deferred payments agreement](#) with the council or if Section 117 aftercare is being arranged under the Mental Health Act. If a third party agreement is put in place on a temporary basis until a [Deferred Payment Agreement \(DPA\)](#) is entered into and accepted then the third party payment must continue to be paid until the DPA is finalised. If the resulting first party agreement is then backdated, any third party overpayment will be refunded.

See Section 3.11 below (page 14) for more information on First Party top-ups

Additional costs paid by a third party are known as 'third party top-ups'. This PPG document mainly addresses the county council's policy and procedures under these circumstances.

How do top-ups work in practice?

Following an appropriate assessment of needs and a financial assessment, a 'top-up' works as follows:

When the first or third party chooses a more expensive care home that comes with a 'top-up' charge, the county council pays the respective care home a "gross" or "aggregated" fee. This includes both the standard rate for residential care as agreed annually by the county council, any assessed financial contribution from the person, and the 'top-up fee'.

The county council then issues a separate invoice to the first or third party to reclaim the 'top-up' directly from the individual whose responsibility it is to pay the charge. Residential providers **must not** ask the first or third party to pay the top-up to the provider and the county council **will not allow** the first or third party to pay the 'top-up' directly to the provider (care home, etc.) under any circumstance.

Ultimately, the county council is responsible under the Care Act 2014 for paying the full amount to the accommodation provider should the arrangement break down for any reason. However if such a breakdown occurs, the county council **must** review the person's care and support needs and arrangements and it may become necessary for the person to move to alternative accommodation.

It is the county council's responsibility to ensure that the person receiving care or the person paying the 'top-up' fee fully understands the implications of their choice, including the fact that the additional cost will need to be paid for each week the resident resides in the care home. The county council is also required to process and oversee 'top-up' payments in a clear, consistent and timely manner.

Important things to remember about Third Party top-ups

Who is covered by the law on top-ups?

The law on 'top-ups' applies equally to those entering care for the first time, those who have already been placed by the county council, and those who have been "full cost"

self-funders but who, because of diminishing resources, are on the verge of needing the county council's support.

When the person's needs determine a specific accommodation setting

If a person's assessed needs can only be met in a specific accommodation setting, neither the prospective resident nor a third party should be asked for a 'top-up' payment. In these instances – where the person cannot make a choice about their accommodation because their assessed needs determine that they should be placed in a specific residence – the county council should make up the difference in cost between the resident's assessed contribution and the fees for that particular residence.

The Financial Assessment

The prospective resident will be financially assessed and may be asked to pay a contribution towards the fees payable to the home they have chosen. This financial contribution will be in addition to the first or third party agreement, if required. 'Top-up' payments are always separate and in addition to the resident's assessed contribution towards their care costs. For this reason, any third party 'top-up fee' **cannot** be met from the resident's income. The third party agreement will be reviewed periodically in line with any increases in the fees charged by the care home or in increases in payments to the care home by the county council. See Section 3.7 ("Reviewing the Agreement") on page 12 for more information.

When the person becomes ineligible for funding assistance from the county council

It can sometimes be the case that people who have been placed in residential care by the county council become, over the course of time, ineligible for funding assistance due to various reasons (for example, a property sale or other monies acquired from other sources that affect the outcome of their financial assessment, or they are found to have deprived themselves of assets or otherwise underestimated their resources, or an error has been made in a previous financial assessment). In these cases, the individual would become liable for the total cost of the placement themselves.

Top-ups must be optional

A 'top-up' **must always be optional** and should never arise as a result of commissioning failures or market inadequacies which have created a lack of choice. Social care staff should not seek a top-up if the

'Top-ups' and Lasting Power of Attorney

A 'top-up' payment can only be sought when a person has chosen more expensive accommodation themselves. In some circumstances the person may have a Lasting Power of Attorney (LPA) giving another person the right to make this choice on the person's behalf. This Lasting Power of Attorney decision maker may be a different individual to the third party paying the 'top-up' fee. Even if the LPA decision maker makes the decision to choose a more expensive accommodation, it is the third party who will make the payments and assume all responsibilities and liabilities. Therefore, the third party must be made aware of the full financial implications of agreeing to a 'top-up' arrangement and of signing a third party written agreement. Third Party 'top-up' fees should only be paid by relatives, family members, friends or other representatives who are *able* and *willing* to pay them.

Changes in circumstances

'Top-up' arrangements can be in place for a number of years and, as with other aspects of people's lives, people's circumstances can change. This sometimes means that people who have agreed to pay a 'top-up' fee can no longer afford to do so. See Section 3.8 (page 13) for more information.

Changes in care home fees

Similarly, the fees charged by care homes can change over time, too. These fees often increase every year but the county council will not always increase funding by the same amount. Therefore, anyone paying a 'top-up fee' could find themselves paying more each year to cover the difference in fees and should be made aware of this possibility before agreeing to pay a 'top-up fee.' See Section 3.10 ("Price increases and other changes to commissioned arrangements") on page 14 for more information.

Summary of implications of signing a Third Party Agreement

When arranging a 'top-up' payment, the person meeting this cost **must**:

- Be willing and able to do so for the likely duration of the arrangement;
- Be aware of the consequences should they no longer be able to make the payment; and
- Enter into a written agreement with the county council setting out the details of the payment. The purpose of the written agreement is to ensure that all parties clearly understand their rights and responsibilities.

More information on the written agreement is available at Section 3.3, below (page 10).

A link to a copy of the county council's written agreement on 'top-up' payments is available under Section 4 of this document (page 16).

Therefore to fulfil its duty under Section 30 of the Care Act 2014 the county council will, working with its statutory, voluntary and private sector partners, comply with the national threshold relating to care and support in a manner that is relevant, coherent, timely and sufficient.

The county council will make all reasonable adjustments to ensure that all disabled people have equal access to participate in the eligibility decision in line with the Equality Act 2010.

The geography and population of Lancashire is diverse and our policies and practice will aim to deliver services and support that are representative of the communities in which we work.

The county council will follow relevant legislation, policies and guidance to ensure our practice is of high quality and legally compliant. Where our customers or those we come into contact with wish to challenge or raise concerns in regard to our decisions regarding eligibility [the county council's complaints procedures will be made available](#).

2. KEY DEFINITIONS AND PRINCIPLES

2.1 Top-Ups

Under the law, a person receiving care and support is allowed to choose accommodation that is more expensive than the amount allocated for accommodation in their personal budget. A personal budget sets out the costs of meeting the person's needs and must be prepared by the county council as part of the person's [Care and Support Plan](#).

Where the person has chosen accommodation that costs more than the amount provided in their personal budget, an arrangement will need to be made as to how the difference in cost will be met. This is known as an additional cost or 'top-up' payment and is the difference between the amount specified in the personal budget (based on the standard rates negotiated between the county council and care home providers) and the actual cost of the accommodation.

In such cases, the county council **must** arrange for the person to be placed in this more expensive setting, providing a 'third party' (or in certain circumstances the person in need of care and support, known as the 'first party', see Section 3.11, page 14) is willing and able to meet the additional cost.

2.2 Top Ups under Section 117 of the Mental Health Act

In relation to the section 117 duty, the person may wish to choose accommodation which costs more than the amount the county council would usually pay for providing or arranging accommodation of that kind. In these cases, the person or a third party will need to enter into an agreement to meet the additional cost. This is also known as a 'top-up' payment.

In some cases, a person may actively choose a setting that is more expensive than the amount identified for the provision of the accommodation in the personal budget. In such cases, the county council must arrange for them to be placed there, provided a third party, or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost.

2.3 Information and Advice

All parties entering into a 'top-up' arrangement, especially the person paying the additional cost, should fully understand their options and any responsibilities, liabilities and consequences of any arrangements they make after considering those options.

For people to be able to exercise genuine choice they need information about the options open to them. They should therefore be given clear and balanced information with which to make the best choice of accommodation. Individuals should be told explicitly that they may allow the county council to make a decision about accommodation on their behalf, or, if they wish, they are free to choose any

accommodation subject to the constraints set out in the regulations. This must include information and advice about the different care providers available in their preferred area as well as information and advice to help people to understand care charges, different ways to pay, and money management.

The county council should also facilitate access to [financial information and advice](#) provided independently of the council, including regulated information and advice where appropriate, to support people in making informed financial decisions. This will be particularly appropriate when a person is considering paying a 'top-up' so that they can understand what they would be paying the 'top-up' for and to evaluate whether a 'top-up' would represent good value for money.

Under the Care Act, the county council **must** provide all parties with sufficient information and advice to support them to understand the terms of the proposed written agreement (which is a legally binding document) before entering in to it. The county council **must** also have regard to the general guidance on Information and Advice set out in Section 4 of the Care Act. See the [Information and Advice PPG](#) for more guidance on this part of the Act.

[The PPG intranet site contains a number of Finance Factsheets to help you provide appropriate Information and Advice.](#)

2.4 Direct Debits: The county council's preferred option for managing Top Up payments

It is the preferred option of the county council that agreed 'top-up' payments are paid via Direct Debit. However, the county council cannot insist on this method of payment if it is the sole reason preventing the person from entering their choice of home (i.e. where the person paying the 'top-up' does not have a bank account that supports Direct Debit payments).

Therefore, other (non-Direct Debit) methods of payment will only be considered in exceptional circumstances. In such cases, the person must contact Exchequer Services on **0300 1236708** to discuss alternative payment options and may be required to provide evidence of their inability to make the payments via Direct Debit.

The original, signed Direct Debit mandate attached to the written Third Party Agreement must be sent to Exchequer Services.

2.5 People who may lack capacity and are unable to make their own choice

There will be cases where a person lacks the mental capacity to express a choice for themselves. The county council should therefore act on the choices expressed by the person's [advocate](#), carer or legal guardian in the same way they would on the person's own wishes, unless it would be against the best interests of the person.

For more information on considering mental capacity and best interests, please see the Mental Capacity PPG [LINK coming in 2019].

The county council's advocacy provider can be contacted on [0300 323 0965](tel:03003230965)

3. PROCEDURES

The following sections of this PPG document **only apply where the person has freely chosen a more expensive accommodation setting.**

Where someone is placed in a more expensive setting only because the county council has been unable to make arrangements at the anticipated cost, the personal budget **must** reflect this amount. The person would then contribute towards this personal budget according to their financial assessment. The additional cost provisions around 'top-up' payments detailed below **do not apply** in such circumstances. Also, if the person's assessed needs can only be met in a specific accommodation setting, neither the prospective resident nor a third party should be asked for a 'top-up' payment.

3.1 Information and Advice on 'top-ups'

Before agreeing to a 'top up' and before entering into the legally-binding written agreement (see Section 3.3 below, page 11), the county council **must** provide the person paying the 'top-up' with sufficient information and advice to ensure that they understand their options and choices, including actively considering the provision of [independent financial information and advice](#).

Information and advice given to people before entering into any written agreement must also include the implications of the agreement, including the implications of ceasing to make payments or failing to fulfil the terms of the agreement – which is a legally-binding document. It is the responsibility of the person signing the agreement to make the arranged payments and to contact the county council if there are any changes in circumstances that could result in non-payment or any other failure to fulfill the terms of the agreement.

Staff must enter a case note onto LAS to confirm that:

- **A genuine choice of accommodation has been offered**
- **Information and advice has been given, and**
- **The implications of signing the written agreement have been explained to the First/Third Party Payee** (see Section 3.2, below)

[The PPG intranet site contains a number of Finance Factsheets to help you provide Information and Advice.](#)

3.2 Agreeing a 'top-up' fee

The county council should ensure that the person paying the 'top-up' understands the full implications of their choice.

Understanding these implications should include:

- Understanding that a third party, or in certain circumstances the person needing care and support (the 'first party'), will need to meet the additional cost of that setting for the full duration of their stay in the preferred accommodation.
- Understanding that the care home's fees may go up during the course of the person's stay in that accommodation and that this may affect the amount of the 'top-up'.
- Understanding that – should the additional cost not be met – the person paying the top up will be actively pursued by the county council for those costs and any debt will be referred to an external Debt Collection Agency or to the county council's legal services department.
- Understanding that – should the additional cost not be met – the person receiving care and support may be moved to an alternative setting.
- Understanding that discussions about choosing accommodation often happen at a point of crisis for the person or their family, friends or other representatives.

It is important that the person paying the 'top-up' takes a long-term view of their personal financial situation, and takes advice appropriate to the complexity of their financial circumstances. The cost of the additional payments may be a substantial commitment over many years. The full impact of this payment needs to be considered and understood.

The county council **must** ensure that the person paying the 'top-up' is willing and able to meet the additional cost for the likely duration of the arrangement and clearly recognises that the agreement and the additional costs may apply for some time into the future, and that the care home in question may increase its fees at some point in the future, which may affect the 'top-up' fee.

For this reason, the county council **must** ensure that the person paying the 'top-up' formally consents to meet that additional cost and all of its obligations through a legally-binding written agreement with the county council.

See Section 3.9 ("Consequences of ceasing to make payments or failing to fulfil the agreement") on page 13 for more information.

3.3 The Written Agreement ("the Agreement")

The written agreement ("the Agreement") must, as a minimum, include the following:

- the additional amount to be paid
- the amount specified for the accommodation in the person's personal budget
- the frequency of the payments
- to whom the payments are to be made
- provisions for reviewing the agreement

- a statement on the effect of any changes in the financial circumstances of the person paying the 'top-up'
- a statement on the consequences of ceasing to make payments
- a statement on the effect of any increases in charges that a provider may make

If the arrangements for a 'top-up' were to fail for any reason, the county council would need to meet the cost of the accommodation or make alternative arrangements, subject to a new [assessment of needs](#). Further details are set out below in Section 3.9, page 13.

The Agreement cannot be altered. Any comments added to or deleted from the document by the payee will not change the terms of the agreement set by the county council.

Staff who commission a residential placement via a CPLI should ensure that there is no delay in entering a valid, signed Third Party Agreement via a CPLI. There have been cases where CPLIs for third party 'top-ups' were entered much later than the original arrangement for the residential placement and invoices could not therefore be generated.

The Agreement should be signed by one person – the party making the payments. This person accepts all relevant liabilities and responsibilities.

The original, signed Direct Debit mandate attached to the written Third Party Agreement must be sent to Exchequer Services. A copy of the signed agreement should be saved on Documentum and a LAS case note recorded to say the signed agreement has been received.

A copy of the county council's written agreement on 'top-up' payments is available under Section 5 of this document (page 16).

3.4 The amount to be paid

The amount of the 'top-up' should be: The difference between the actual costs charged by the preferred accommodation provider and the amount that the county council would have set in a personal budget (or local mental health after-care limit) to meet the person's eligible needs by arranging or providing accommodation of the same type.

When considering the cost of care in its area, the county council is likely to identify a range of costs which apply to different circumstances and settings. For the purposes of agreeing a 'top-up' fee the county council **must** consider what personal budget it would have set at the time care and support is needed. It should not automatically default to the cheapest rate or to any other arbitrary figure.

The Agreement will clearly set out the weekly amount to be paid. Please note that this amount may increase over time because the care home's costs are subject to change over time (for example, due to mandated increases in the National Living Wage) and

there is no guarantee that any increase in costs will automatically be distributed evenly between the accommodation provider, the payee and the county council.

In certain cases, therefore, it may be necessary to review the 'top-up' arrangement, including the amount to be paid, to ensure that obligations made under the Agreement remain acceptable to all parties. See Section 3.7 below for more information on reviews.

3.5 The frequency of payments

The county council will clearly set out in the Agreement that payments should be made every four weeks in arrears as per the county council's Direct Debit payment schedule.

3.6 Responsibility for payments and who makes the payments

Under the Care Act, the county council is responsible for the total cost of care placements, including the 'top-up'. This means that the county council is liable for any fees if there is a failure to make the 'top-up' payment (for example if the person making the 'top-up' cannot or ceases to make the agreed payments).

In order to avoid any complications arising from these arrangements, the county council always pays the relevant accommodation provider the full amount for the placement and then invoices the third party payee (or, in limited circumstances, the first party payee) for the full additional cost (i.e. the 'top-up'). Residential providers **must not** ask the first or third party to pay the top-up to the provider and the county council **will not allow** the first or third party to pay the 'top-up' directly to the provider (care home, etc.) under any circumstance.

The county council also does not 'split' invoices (for example, among different family members of the person being placed in the relevant accommodation). The county council will only issue a single invoice and the Agreement should be signed by one person only – the person making the payments. This person accepts all relevant liabilities and responsibilities.

3.7 Reviewing the Agreement

The Agreement will be reviewed periodically in line with any increases in the fees charged by the care home or in increases in payments to the care home by the county council.

Reviews will be triggered by any change in fees – either when the care home increases its fees beyond what the county council is willing to pay or when the county council decides to increase the fees it pays to a care home. Changes in fees could impact on the amount the Third Party is asked to pay and the county council will contact the Third Party Payee to seek their agreement to the new fee.

If the Third Party Payee is unwilling to meet any new costs that arise in these circumstances, the resident may have to move accommodation – subject to a review.

The next two sections give more information on what happens if circumstances change or the Agreement can no longer be fulfilled.

3.8 Changes in circumstances and the payee's responsibility to contact the county council

If at any time the financial circumstances of the payee changes and the agreed amount becomes unviable or unaffordable, it is the responsibility of that payee to contact the county council immediately on 0300 1236721 to arrange a review. A review will be completed at the earliest opportunity following notification. Until that review is undertaken it is the responsibility of the payee to continue to meet the payments.

Where the resident has a change in circumstances that requires a new financial assessment and this results in a change in the level of contribution the resident themselves makes, this may not reduce the need for a 'top-up' payment.

The county council will be sensitive to any changes in a payee's circumstances which create any difficulty in continuing to make the agreed payments. The county council will demonstrate flexibility in its responses to any such changes in circumstances.

3.9 Consequences of ceasing to make payments or failing to fulfil the Agreement

If the third party payments are not made in accordance with the terms of the Agreement, the county council reserves the right to refer any outstanding debt to either an external Debt Collection Agency or to its internal Legal Services Debt Recovery Team. This will result in County Court Proceedings being issued directly against the signatory, which will incur the payment of additional costs and interest as are allowed by the Court.

The county council has the legal power to make alternative arrangements to meet the person's needs, subject to a new [assessment of needs](#) and with due regard to the person's wellbeing. The Agreement states that, if the third party payee is no longer able to fulfil the agreement or ceases payment, "this could mean that the resident may be asked to move to a room or home that continues to meet their needs and is within the weekly amount Lancashire County Council has set to pay for the type of accommodation needed."

Where there may be a dispute over Continuing Health Care (CHC) funding, it is the county council's policy that people are expected to pay the 'top-up' and – if CHC funding is subsequently awarded – the person may then seek a refund.

3.10 Price increases and other changes to commissioned arrangements

Care homes may periodically increase the fees they charge the county council for accommodation and this may also increase the 'top-up' fee.

There is no guarantee that any increase in costs (caused, for example, by legal requirements to increase the National Living Wage paid to care home staff) will automatically be distributed evenly between the accommodation provider, the person who pays the 'top-up' and the county council. It could be the case that the provider's costs (and, therefore, the fees they charge) rise more quickly in the future than any increase in the cost of alternative accommodation that would be affordable within the person's personal budget had they not chosen more expensive accommodation. Each case will be different.

Therefore, where any such price increases affect a Third Party Agreement, the county council will investigate the implications of the increase on a case-by-case basis. How the cost increase will be shared between the accommodation provider, the person or party who pays the 'top-up' and the county council will be decided based on the outcome of the investigation.

The county council must first agree to any changes in cost, or any other changes to contracted arrangements, before any changes can be put into effect.

3.11 First-Party Top Ups

The person whose needs are to be met by the accommodation may themselves choose to make a 'top-up' payment only in the following circumstances:

- Where they are subject to a 12-week property disregard (see the [Deferred Payments PPG](#) for more information on the disregard)
- Where they have a [Deferred Payment Agreement](#) in place with the local authority. Where this is the case, the terms of the agreement should reflect this arrangement. [A fact sheet on deferred payments is also available.](#)
- Where they are receiving accommodation provided under Section 117 for mental health aftercare under the Mental Health Act (see Section 3.12 below).

If a third party agreement is put in place on a temporary basis until a [Deferred Payment Agreement \(DPA\)](#) is entered into and accepted then the third party payment must continue to be paid until the DPA is finalised. If the resulting first party agreement is then backdated any third party overpayment will be refunded.

3.12 Choice of accommodation and after-care under the Mental Health Act

People who receive mental health after-care enjoy broadly the same rights to choice of accommodation as someone who receives care and support under the Care Act 2014. See the Choice of Accommodation PPG for more information.

But some differences arise because after-care is provided free of charge. Also, because the legislative requirement for a care and support plan under the Care Act 2014 does not apply to section 117 after-care, the care plan should instead be drawn up under guidance on the Care Programme Approach (CPA).

Care planning under the CPA should, if accommodation is an issue, include identifying the type of accommodation which is suitable for the person's needs and affording them the right to choice of accommodation set out in the regulations made under section 117A. The person should be fully involved in the care planning process.

An adult has the right to choose accommodation provided that:

- the preferred accommodation is of the same type that the county council has decided to provide or arrange
- it is suitable for the person's needs
- it is available (see the Choice of Accommodation PPG for more information on 'availability') for mental health after-care purposes ('assessed needs' means needs identified in the CPA care plan)
- where the accommodation is not provided by the local authority, the provider of the accommodation agrees to provide the accommodation to the person on the local authority's terms (see guidance in para. 18).

Where the cost of the person's preferred accommodation is more than the county council would provide in a personal budget or local mental health after-care limit to meet the person's needs, then the county council **must** arrange for them to be placed there, provided that either the person or a third party is willing and able to meet the additional cost.

The same guidance and procedures contained in Section 3 apply where the adult receiving section 117 after-care chooses more expensive accommodation. For the purposes of section 117 after-care, however, references to a 'third party' should be read as including the adult receiving the after-care (because an adult can also meet the additional cost when the county council is providing, or arranging for the provision of accommodation in discharge of the after-care duty).

In securing the funds needed to meet the additional cost, one of the following will apply:

- the county council may agree with the person and the provider, and in cases where a third party is paying the 'top-up', agree with that third party, that payment for the additional cost can be made directly to the provider with the local authority paying the remainder.
- the person or the third party pays the 'top-up' amount to the county council. The county council then pays the full amount to the provider.

3.13 Complaints

Complaints about how choice or any 'top-up' arrangement is exercised by the county council fall within the scope of the [county council's statutory complaints procedure](#).

4. RELATED DOCUMENTS

POLICY, PROCEDURE AND GUIDANCE (PPG) DOCUMENTS	Adult services policies, procedures and guidance (PPG) intranet site. Written Agreement – First and Third Party Top Ups [LINK]
LEGISLATION AND REGULATIONS	<ul style="list-style-type: none"> • Annex A of the Care Act 2014 Statutory Guidance • Care and Support and After-care (Choice of Accommodation) Regulations 2014 • National Assistance Act 1948 (Choice of Accommodation) Directions 1992 • National Assistance (Residential Accommodation) (Additional Payments and Assessment of Resources) (Amendment) (England) Regulations 2001

5. EQUALITY IMPACT ASSESSMENT

The Equality Act 2010 requires the county council to have "due regard" to the needs of groups with protected characteristics when carrying out all its functions, as a service provider and an employer. The protected characteristics are: age, disability, gender identity/gender reassignment, gender, race/ethnicity/nationality, religion or belief, pregnancy or maternity, sexual orientation and marriage or civil partnership status. The main aims of the Public Sector Equality Duty are:

- To eliminate discrimination, harassment or victimisation of a person because of protected characteristics;
- To advance equality of opportunity between groups who share protected characteristics and those who do not share them. This includes encouraging participation in public life of those with protected characteristics and taking steps to ensure that disabled people in particular can participate in activities/processes;
- Fostering good relations between groups who share protected characteristics and those who do not share them/community cohesion.

It is anticipated that the guidance on **First and Third Top Ups** in this document will support the county council in meeting the above aims when applied in a person-centred, objective and fair way which includes, where appropriate, ensuring that relevant factors relating to a person's protected characteristics are included as part of the process. [More information can be found on the Equality and Cohesion intranet site.](#)